

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICARDO MARTEZ JOHNSON,

Defendant-Appellant.

UNPUBLISHED

April 28, 2011

No. 297084

Washtenaw Circuit Court

LC No. 09-001189-FH

Before: METER, P.J., and SAAD and WILDER, JJ.

PER CURIAM.

A jury convicted defendant of assault with intent to do great bodily harm less than murder, MCL 750.84 and aggravated domestic violence, MCL 750.81a(2). The jury also convicted defendant of domestic violence, but the trial court vacated the conviction as a lesser included offense of aggravated domestic violence. The trial court sentenced defendant to two to 20 years in prison for the assault with intent to do great bodily harm conviction, and imposed fines, costs and fees for both convictions. We affirm defendant's convictions and sentences, but remand for the ministerial correction of his presentence investigation report.

The evidence at trial established that, on two occasions in June 2009, defendant physically assaulted his girlfriend. Defendant argues that the trial court deprived him of due process and a fair trial when it instructed the jury on assault with intent to do great bodily harm, two counts of aggravated domestic assault, and one count of domestic assault. According to defendant, because there were only two assault incidents, the jury should have been instructed that any additional counts of assault were charged in the alternative. Defendant offers no argument or citation to applicable case law to support his contention that the trial court's instructions deprived him of a fair trial. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give only cursory treatment with little or no citation of supporting authority." *People v Kelly*, 231 Mich App 627, 641; 588 NW2d 480 (1998). We further note that defense counsel expressed satisfaction with the jury instructions and also with the trial court's suggestion that, if the jury convicted defendant of a greater and lesser offense, the lesser offense would be vacated. Accordingly, defendant waived this issue and there is no error to review. *People v Carter*, 462 Mich 206, 215-216; 612 NW2d 144 (2000). Moreover, we would consider any alleged error harmless because the trial court vacated defendant's domestic violence conviction, so he was not

improperly punished for multiple crimes arising out of the same transaction. *People v Clark*, 243 Mich App 424, 429; 622 NW2d 344 (2000).

Defendant maintains that his presentence investigation report (PSIR) contains inaccurate information. A defendant is generally entitled to have information that is irrelevant or inaccurate stricken from his presentence report. *People v Taylor*, 146 Mich App 203, 205-206; 380 NW2d 47 (1985). We agree with defendant that his PSIR incorrectly states that he was convicted of three crimes instead of two. The report should be corrected to reflect that defendant's domestic violence conviction was vacated and that conviction should be deleted from the report. At sentencing, defense counsel also took issue with the following sentence in defendant's PSIR: "He, along with the other parolees, were evicted from the placement after the landlord discovered that there were thousands of dollars worth of damage." Contrary to defendant's assertion on appeal, it appears that this sentence was deleted from the report, not simply crossed out by the trial judge. Defendant does not otherwise specify which information he deems inaccurate or irrelevant. Accordingly, we remand only for correction of the reference to the domestic violence conviction.

Defendant claims that the trial court abused its discretion when it ordered him to pay court costs. At sentencing, defendant only objected to the imposition of attorney fees and he did not raise any argument about the imposition of court costs. Accordingly, we review this issue for plain error. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999). Contrary to defendant's argument, the trial court relied on clear statutory authority to impose court costs at defendant's sentencing and, therefore, no error occurred. MCL 769.1k(1)(b)(ii); MCL 769.34(6).

Affirmed. We remand only for ministerial correction of the PSIR in accordance with this opinion. We do not retain jurisdiction.

/s/ Patrick M. Meter
/s/ Henry William Saad
/s/ Kurtis T. Wilder